

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Cr. No. 19-4440 MV

NICHOLOUS PHILLIPS,

Defendant.

**UNITED STATES' SUPPLEMENTAL BRIEFING REGARDING
NOTICE OF EVIDENCE PURSUANT TO FEDERAL RULE OF EVIDENCE 609**

On June 22, 2020, the United States filed its Notice of Evidence Pursuant to Federal Rule of Evidence 609(a)(1)(B) of its intention to cross-examine defendant Nicholous Phillips (“Defendant”) regarding four of his prior convictions, should he choose to testify in his own defense. Doc. 45. Those convictions include: 1) felon in possession of a firearm (federal), 2) shooting from/into a vehicle, 3) possession of a firearm or destructive device by a felon (state), and 4) trafficking a controlled substance (cocaine). On July 27, 2020, this Court issued an Order for Supplemental Briefing seeking additional information about Defendant’s prior convictions. Doc. 68. In accordance with the Court’s Order, the United States hereby files this supplement.

1) Defendant was convicted in the District of New Mexico of being a felon in possession of a firearm and ammunition in violation of 18 U.S.C. § 922(g)(1). He entered his guilty plea on April 26, 2011, and was sentenced by this Court on October 13, 2011, to 60 months imprisonment followed by two years of supervised release. Records from the Bureau of Prisons indicate that Defendant was released from confinement on September 5, 2018.

2) Defendant was convicted in the State of New Mexico’s Eighth Judicial District for shooting from/into a vehicle in violation of N.M. Stat. Ann. § 30-3-8(B) and for possession of a firearm or

destructive device by a felon in violation of N.M. Stat. Ann. § 30-07-16. He entered his guilty plea on January 8, 2008, and was sentenced on March 12, 2008 to a three-year term of supervised probation. In March 2010, Defendant's probation was revoked and he was incarcerated from March 5, 2010, until he was turned over to the United States Marshals Service on a federal detainer on July 23, 2010. He returned to state custody on March 22, 2012, and returned to federal custody on December 20, 2013.

3) Defendant was convicted in the State of New Mexico's Eighth Judicial District for trafficking a controlled substance (cocaine) in violation of N.M. Stat. Ann. § 30-31-20(A)(2)(B)(1). He entered his guilty plea on December 7, 2004, and was sentenced to a five-year term of probation. In April 2008, the state district court revoked Defendant's probation and placed him on a term of supervised probation to run through December 2013. In March 2010, Defendant's probation was revoked altogether and he was incarcerated from March 5, 2010, until December 2013, when he began a two-year term of parole.

Respectfully submitted,

JOHN C. ANDERSON
United States Attorney

/s/
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I HEREBY CERTIFY that I filed the foregoing pleading electronically through the CM/ECF system which caused defense counsel, Joe Romero, to be served by electronic means, as reflected on the Notice of Electronic Filing as indicated therein on August 11, 2020.

/s/
Jaymie L. Roybal
Assistant United States Attorney